



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

TESTIMONY PRESENTED BEFORE THE PUBLIC HEALTH COMMITTEE March 1, 2010

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House Bill 5287 - An Act Allowing the Production and Sale of Acidified Food Products on Residential Farms

The Department of Public Health opposes House Bill 5287.

The canning activity addressed in this legislation involves complex food processing procedures that allows for the growth and spread of *Clostridium botulinum*—the botulism causing bacteria. Botulism is a foodborne illness that causes paralysis of facial muscles that extends into the extremities and can, eventually, lead to respiratory failure and death. The proposed bill seeks to exempt a class of producers from rules that establish a minimum standard of food processor safety. In the place of these rules, the bill institutes a loose set of requirements (addressed on the reverse page) that fall well short of the necessary measures to prevent the spread of foodborne illness. Furthermore, it removes the normal regulatory oversight that would ensure that even these inadequate standards were met.

Adherence to current law requires a properly designed, equipped, regulated and inspected commercial facility, as well as an operator who demonstrates food safety knowledge in the area of food processing. Commercial food processing rules ensure that:

- time/temperature standards are met,
- food chemistry (pH, water activity, redox potential, etc.) concerns are addressed,
- environment, process and preparation controls are in place, and that
- laboratory confirmation is obtained to ensure that sufficient barriers are employed to prevent the growth of foodborne pathogens.

Furthermore, extensive documentation must be kept and made available regarding the safeguards implemented to meet these and other requirements. This required documentation is meant for use by all appropriate local, state and federal agencies to conduct epidemiological investigations in the event of a foodborne outbreak. It should be noted that the US FDA has submitted testimony explaining their regulatory role over this activity. Their rules are dictated by the Pure Food, Drug & Cosmetic Act and apply to all products subject to interstate commercial activity, including the production of food made with ingredients purchased across state lines. Beyond this, the federal agency possesses regulatory authority over foods made from and packaged in components originating entirely from within a single state. All of these measures are meant not only to protect consumers' health, but also, again, to aid in epidemiological investigations stemming from foodborne outbreaks.

In addition to the issues addressed by state and federal government oversight of operations, the question of appropriate ingredients must also be discussed. The produce items mentioned in the bill have, indeed, traditionally been thought of as low hazard foods. However, recent national events have found them implicated in foodborne outbreaks caused by *Salmonella*, *E. coli* and other pathogens. The FDA over the last several years has added several fresh produce items to the definition of potentially hazardous foods—including garlic in oil, sprouts, cut melons, cut tomatoes, and most recently, cut leafy greens because of their association with these outbreaks. The use of fresh ingredients, local or otherwise, provides no additional measure of food safety.

Understanding and preventing the growth and survival of pathogens in food is complex and varies for type of food, the organism, and other factors. Investigations have tied national outbreaks to both the failure of food processors to meet food safety standards and the failure of regulators to enforce these standards. Exempting any producer from food safety regulations remedies neither issue and flies in the face of national campaigns to implement drastic increases in regulatory activity in this area. Ultimately, a foodborne outbreak linked to the exemption created in this bill will result in a loss of trust among consumers in local agricultural products, farmers' markets and the State of Connecticut.

Thank you for your consideration of the Department's views on this bill.

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Subsection (b) of House Bill 5287 removes all state food safety requirements and replaces them with a limited set of new rules. The comments provided below address the new requirements and offer an explanation of ways in which they fall short of the current rules for food production. This material does not address the many other laws and regulations from which farmers would be exempt under HB 5287.

Laboratory Confirmation

FDA and DCP requirements for laboratory confirmation of product safety cover a comprehensive set of criteria. In order to ensure that appropriate measures have been taken to prevent the growth of foodborne pathogens, testing solely for pH is not sufficient. Any epidemiological investigation would require the entire set of testing criteria in order to make a determination regarding a potential point of contamination.

Potable Water

The Department of Public Health sets standards for 'approved source' ingredients that are used in Food Service Establishment settings. Included in these ingredients is potable water. Potable water standards are defined under the Public Health Code. These standards do include thresholds for coliform bacteria. However, this is only one category of many others mentioned in the agency's regulations. All water, whether it is from a public drinking water system or well, must meet these standards.

Processor Training

The Department of Public Health currently neither offers nor endorses any course or examination containing subject matter related to the safe processing of food products. The Food Protection Program oversees the certification of Food Service Operators who are required to demonstrate knowledge of safe food handling in food service settings (i.e.: restaurants, hotels, etc.). This activity is fundamentally different than the commercial production of food items. Any requirement for a food processor to complete this type of training would be both incomplete and irrelevant to operating a commercial cannery.

Processing Documentation

Documentation of appropriate processor training is only one item of the many required to be maintained by food processing operations. As mentioned in the provided testimony, this documentation is necessary to ensure the ability of state, local and federal agencies to identify potential sources of contamination in the event of a foodborne outbreak. These investigations involve thorough and comprehensive reviews of the entire production process in order to identify the source of pervasive and potentially lethal foodborne pathogens.